

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

DEIRDRE BOX,)	
)	
Plaintiff,)	
)	
vs.)	Case No.
)	
STELLAR RECOVERY, INC.,)	
)	
Defendant,)	

DEFENDANT STELLAR RECOVERY INC.'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN:

Defendants remove this action to the United States District Court for the Eastern District of Michigan, pursuant to 28 U.S.C. §§ 1441 and 1446(a). This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1367.

A. Introduction

1. Plaintiff is Deirdre Box ("Box").
2. Defendant is Stellar Recovery, Inc. ("Stellar").
3. This case was initially filed on or about September 28, 2011, in the 68th District Court for the State of Michigan, as Case Number 11-1986-GC.
4. Box seeks damages for alleged violations of the Fair Debt Collection Practices Act (FDCPA), Michigan Occupational Code (MOC), and Telephone Consumer Protection Act (TCPA). A copy of Plaintiffs' Summons and Complaint is attached as Exhibit A.
5. Stellar was served with the lawsuit on or about October 13, 2011.
6. Stellar files this notice of removal within the 30-day time period required by 28 U.S.C. § 1446(b).

B. Basis for Removal

7. Removal is proper because Box's Complaint involves a federal question. 15 U.S.C. §§ 1692 et seq.; *Long v. Bando Mfg. of Am., Inc.*, 201 F.3d 754, 757-58 (6th Cir. 2000); *Peters v. Union Pac. R.R.*, 80 F.3d 257, 260 (8th Cir. 1996).
8. Box's Complaint contains a claim against Stellar arising under 15 U.S.C. §§ 1692, et seq., for alleged violation of the FDCPA. This Court has federal subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d).
9. Box's Complaint contains two additional claims, brought under 47 U.S.C. § 227, et seq., for alleged violations of the TCPA, and under MCL § 339.901, et seq., for alleged violations of the MOC. This Court has supplemental subject matter jurisdiction over these two causes of action under 28 U.S.C. § 1367 because they are so related to the claims under the FDCPA that they form part of the same case or controversy.
10. All pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. §1446(a).
11. Venue is proper in this district under 28 U.S.C. §1441(a) because this district and division embrace the place where the removed action has been pending.
12. Stellar will promptly file a copy of this Notice of Removal with the clerk of the state court where the action has been pending and serve a copy of this Notice on Box.

C. Jury Demand

13. Box did not demand a jury in her Complaint.

D. Conclusion

14. Stellar hereby removes this action to the United States District Court for the Eastern District of Michigan.

Respectfully submitted,
STEVEN A. SIMAN, P.C.

/s/ Steven A. Siman
By: Steven A. Siman (P20480)
Attorney for Defendant
3250 W. Big Beaver, Ste. 344
Troy, MI 48084-2902
(248) 643-4700
sas@simanlaw.net

Dated: November 2, 2011

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed, via U.S. mail, first class postage prepaid, this 2nd day of November, 2011, to:

Andrew L. Campbell, Esq.
653 S. Saginaw Street, Suite 201
Flint, MI 48502

Respectfully submitted,
Law Offices of Steven A. Siman PC
/s/ Karen L. Ingram
Attorneys for Defendant
3250 W. Big Beaver, Ste. 344
Troy, MI 48084-2902
(248) 643-4700
kingram@simanlaw.net

Dated: November 2, 2011

Exhibit A

STATE OF MICHIGAN
68th DISTRICT COURT

DEIRDRE BOX Plaintiff, v. STELLAR RECOVERY, INC. A Florida Corporation Defendant.	11-1986 -GC <u>COMPLAINT</u>
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JURISDICTION

1. Jurisdiction of this Court arises pursuant to 15 U.S.C. § 1692k(d) and 47 U.S.C. § 227 (c)(5).
2. This action arises out of Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"), violations of the Michigan Occupational Code ("MOC"), and violations of the Telephone Consumer Protection Act ("TCPA") in their illegal efforts to collect a consumer debt.
3. Venue is proper in this Court because the acts and transactions occurred here, Plaintiff resides here, and Defendant transacts business here.

PARTIES

4. Plaintiff Deirdre Box is a natural person who resides in the City of Flint, County of Genesee, State of Michigan, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3) and as defined by MCL § 339.901(f).

A TRUE COPY

**Deputy Clerk 68th District Clerk
City of Flint, Michigan**

5. Stellar Recovery, Inc. (hereinafter "Defendant") is a Florida Corporation and is, upon information and belief, a collection agency whose registered agent is Business Filings Incorporated and whose registered agents mailing address is 30600 Telegraph Road Ste 2345, Bingham Farms, MI 48025 and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6) and is a "collection agency" as that term is defined by MCL § 339.901(b).

FACTUAL ALLEGATIONS

6. On information and belief, Plaintiff incurred a financial obligation that was primarily for personal, family or household purposes based upon purchases made with a credit card, that went into default and is therefore a "debt" as that term is defined by 15 U.S.C. § 1692a(5) and MCL § 339.901(a).
7. On information and belief, the Plaintiff's alleged debt was consigned, placed or otherwise transferred to Defendant for collection from Plaintiff.
8. Within the past year, Plaintiff received at least one message on her telephone left by Defendant.
9. In that message, Defendants' agent or employee failed to disclose that it was a debt collector.
10. On information and belief, Defendants' agents or employees failed to disclose in the initial communication that Defendant was a debt collector and any information obtained will be used for that purpose.
11. These collection communications were in violation of numerous and multiple provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692e(10), and §

1692e(11) and in violation of the MOC, including but not limited to MCL § 339.915 (a), § 915(e), and § 915(g).

12. Plaintiff is a subscriber to several cell phone numbers including 810-730-4263.
13. On information and belief, at no time, did Plaintiff provide prior express permission for anyone to call her cell phone of 810-730-4263 and leave prerecorded or artificial voice messages.
14. Defendant called Plaintiffs cell phone on at least six or more occasions leaving a prerecorded message.
15. Defendant violated Plaintiffs privacy rights in calling her cell phone without prior express permission.

CAUSES OF ACTION

COUNT I. VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. § 1692 et seq.

16. Plaintiff incorporates by reference all paragraphs of this Complaint as though fully stated herein.
17. The foregoing acts and omissions of each and every Defendant constitute numerous and multiple violations of the FDCPA including, but not limited to, each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.
18. Defendant violated 15 U.S.C. § 1692e (10) because by leaving a message that fails to disclose that the communication is from a debt collector is a false representation or use of deceptive means to collect a debt.
19. As a result of each and every Defendant's violations of the FDCPA, Plaintiff is entitled to statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. §

1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from each and every Defendant herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against each and every Defendant.

**COUNT II.
VIOLATIONS OF THE MICHIGAN OCCUPATIONAL CODE
MCL § 339.901 et seq.**

20. Plaintiff incorporates by reference all paragraphs of this Complaint as though fully stated herein.
21. The foregoing acts and omissions of each and every Defendant constitute numerous and multiple violations of the Michigan Occupational Code ("MOC") including, but not limited to, each and every one of the above-cited provisions of the MOC, MCL § 339.901 et seq.
22. Defendant violated MCL § 339.915(a) because by leaving a message that fails to disclose that the communication is from a debt collector is deceptive and/or misleading.
23. The above violations were willful.
24. Plaintiff suffered damage, injury and loss because of Defendants' actions.
25. As a result of each and every Defendant's violations of the MOC, Plaintiff is entitled to statutory damages of \$150.00 and is entitled to reasonable attorney's fees and costs pursuant to MCL § 399.916(2) from each and every Defendant herein.

WHEREFORE, Plaintiff prays that judgment be entered against each and every Defendant.

COUNT III
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. §227

26. Plaintiff incorporates by reference all paragraphs of this Complaint as though fully stated herein.
27. On information and belief, Defendant used an automatic telephone dialing system as defined by 47 USC 227 (a)(1) when it made each and every call to Plaintiffs cell phone in the last four years.
28. On information and belief, Defendant did not have Plaintiff's prior express permission prior to contacting Plaintiff on her cell phone using an automatic telephone dialing system.
29. Defendant made the calls to Plaintiff willfully.
30. Defendant made the calls to Plaintiff knowingly.
31. Defendant's acts in making the calls to Plaintiff were not accidental.
32. Plaintiff has been damaged by the above acts.

WHEREFORE, Plaintiff prays that judgment be entered against each and every Defendant.

COUNT I
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692 et seq.

- for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against Defendant and for Plaintiff;
- for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against each and every Defendant and for Plaintiff;
- for such other and further relief as may be just and proper.


COUNT II
VIOLATIONS OF THE MICHIGAN OCCUPATIONAL CODE
MCL 445.901 et seq.

- for an award of statutory damages of \$150.00 pursuant to MCL § 339.916(2) against Defendant and for Plaintiff;
- for an award of costs of litigation and reasonable attorney's fees pursuant to MCL § 339.916(2) against each and every Defendant and for Plaintiff;
- for such other and further relief as may be just and proper

COUNT III
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. §227

- damages pursuant to 47 U.S.C. § 227 (b)(3)(B) for each and every call in the amount of at least \$500 for each such act that this Court finds was not made willfully or not made knowingly;
- damages pursuant to 47 U.S.C. § 227 (b)(3)(B) for each and every call in the amount of \$1,500 for each such act that this Court finds was made willfully or was made knowingly; and
- such other relief as the Court may deem just and proper.

Dated: September 27, 2011

Respectfully submitted,
Andrew L. Campbell 

Andrew L. Campbell
653 S. Saginaw Street, Suite 201
Flint, MI 48502
(810) 232-4344
hundy24@yahoo.com
P64391

Attorney for Plaintiff

Approved, SCAO

Original - Court
1st copy - Defendant2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN 68th JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS AND COMPLAINT	CASE NO. 11-1986-GC
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Court address

630 S. Saginaw St., Flint, MI 48502

Court telephone no.

(810) 766-8968

Plaintiff's name(s), address(es), and telephone no(s).

DEIRDRE BOX
c/o Andrew L. Campbell

v

Defendant's name(s), address(es), and telephone no(s).

STELLAR RECOVERY, INC.
c/o Resident Agent
Business Filings Incorporated
30600 Telegraph Road Ste 2345
Bingham Farms, MI 48025**A TRUE COPY**Deputy Clerk 68th District Clerk
City of Flint, Michigan

Plaintiff's attorney, bar no., address, and telephone no.

Andrew L. Campbell P64391
653 S. Saginaw St. Suite 201
Flint, MI 48502 (810) 232-4344**SUMMONS****NOTICE TO THE DEFENDANT:** In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to **file a written answer with the court and serve a copy on the other party or take other lawful action with the court** (28 days if you were served by mail or you were served outside this state). (MCR 2.111(C))
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued

This summons expires

Court clerk

*This summons is invalid unless served on or before its expiration date.

This document must be sealed by the seal of the court.

COMPLAINT**Instruction:** The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.**Family Division Cases**

- ☐ There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
- ☐ An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.

The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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General Civil Cases

- ☐ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.

The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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VENUE

Plaintiff(s) residence (include city, township, or village) Flint	Defendant(s) residence (include city, township, or village) Bingham Farms, MI
Place where action arose or business conducted Flint	

Date

9/27/11

Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.